

Repeal obsolete Section 401.9 of the Property Taxes Law related to the lien date change over from March 1 to January 1 for the 1997-98 fiscal year for certain open space and timberland preserve zone contracts.

Source: Property and Special Taxes Department and Legal Department

Existing law provides that certain open space lands and timberland preserve zone property can receive preferential assessment resulting in a reduced assessed value. One condition of receiving this tax relief is that the property be subject to an "enforceable restriction" as to the use of the land. For the first fiscal year that the special assessment procedure is sought, Revenue and Taxation Code Section 430.5 requires that the necessary enforceable restriction be recorded "on or before the lien date" of the particular fiscal year. Section 430.5 also specifies that property owners must commence the enforceable restriction process no later than a certain date to ensure there is sufficient time to finalize and record the restriction prior to the relevant lien date.

In 1996, Section 430.5 provided that property owners could commence the enforceable restriction process up to the December 15 prior to the lien date. However, in 1995, legislation had been enacted to change the lien date from March 1 to January 1 commencing with the 1997-98 fiscal year. Thus, the lien date for the 1997-98 fiscal year would be January 1, 1997 rather than March 1, 1997 and for new open space and timberland preserve zone contracts the law permitted property owners to start the enforceable restriction process as late as December 15, 1996 but the restriction must have been recorded by January 1, 1997 -- a period of only two weeks.

In anticipation of this timing problem, Section 401.9 was added to the Revenue and Taxation Code (SB 1827, Ch. 1087, Stats. 1996, Committee on Revenue and Taxation) to ensure that property owners entering into new contracts where the enforceable restriction was recorded in the period of time between the new and old lien dates (January 1, 1997 through February 28, 1997) would be able to receive the special assessment procedures for the 1997-98 fiscal year. This section of code was relevant only to the 1997-98 fiscal year and is now obsolete. In 1997, Section 430.5 was amended (SB 542, Ch. 941 Stats. 1997) to change the deadline for commencing the enforceable restriction process from December 15 to October 15 thereby providing a permanent solution to the timing problem created with the change in the lien date.

Consequently, it is recommended that Section 401.9 be repealed since it is now obsolete.

Section 401.9 of the Revenue and Taxation Code is repealed:

~~401.9 (a) Contracts entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code) and recorded between January 1, 1997, and February 28, 1997, inclusive, shall be deemed timely for purposes of inclusion on the January 1, 1997, property tax roll.~~

~~(b) Land zoned as "timberland" pursuant to Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code between January 1, 1997, and February 28, 1997, inclusive, shall be deemed timely for purposes of inclusion on the January 1, 1997, property tax roll.~~